

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

IN RE:	§	JOINTLY ADMINISTERED
MARCO A. CANTU and	§	CASE NO. 08-70260-M-7
ROXANNE CANTU and	§	CASE NO. 08-70261-M-7
MAR-ROX, INC.	§	
Debtors	§	CHAPTER 7

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**TRUSTEE'S MOTION FOR TURNOVER OF DEBTOR'S PORTION OF FEES  
FROM SETTLEMENT PROCEEDS TO SATISFY UNPAID SANCTION ORDER**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 20 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**THERE WILL BE A HEARING ON THIS MOTION ON \_\_\_\_\_ AT  
\_\_\_\_\_ O'CLOCK IN COURTROOM \_\_\_\_\_.**

COMES NOW, Michael B. Schmidt, Trustee of the above styled and numbered Bankruptcy Estate, ("Trustee") and files this Motion for Turnover of Debtor's Portion of Fees From Settlement Proceeds to Satisfy Unpaid Sanction Order against Debtor Mark Cantu as follows:

1. Debtor Mark A. Cantu ('Cantu') filed a Chapter 11 Bankruptcy Petition on May 6, 2008. The case was converted on June 24, 2009 and the Trustee was duly appointed as the Ch 7 Trustee.

2. Cantu continued to pursue a frivolous suit before Bankruptcy Judge Isgur in Adversary 09-0711 and was repeatedly sanctioned in that proceeding for his conduct. Judge Isgur awarded the Trustee attorneys fees as a Sanction against Cantu in the amount of \$2,345.00, to be paid within 15 days from entry of the order on December 3, 2009 (See Doc. #35). Additionally, on a separate occasion, Judge Isgur awarded the Trustee attorney's fees \$6,781.61 and ordered that Cantu pay it within 15 days from entry of that Order on December 29, 2009. (See Doc #39). Cantu has

wholly failed to pay those ordered sanction to the Trustee. Furthermore, Cantu was again sanctioned on March 31, 2010 by J. Isgur and Ordered to pay the Trustee's legal fee in the amount of \$1,500.00 (See Doc. #42 and #46). Cantu has not complied with any of those sanction orders. All four of Judge Isgur's sanction orders are attached hereto as **Exhibit "A"**.

3. Cantu admitted to not having satisfied these sanction orders during at his Denial of Discharge Trial in August of 2010, and he also stated that intended to "work something out with the Trustee" (but has never actually even attempted to do so). Cantu has done nothing to satisfy the Court Ordered sanctions owed to the Trustee in the amount of \$10,626.61 (the "sanctions") and they remain outstanding.

4. As part of his duties, the Trustee necessarily monitors Cantu's pre-conversion contingency fee cases in which the estate has an interest in the fees. Additionally, the Trustee has been and intends to continue monitoring Cantu's post-conversion contingency fee cases at least until all sanctions are satisfied. As a result the Trustee has discovered that Cantu has appeared at a settlement hearing and has an interest in a significant personal injury case out of Webb County, Texas, styled *Guerra, et al, v. Ramirez, et al*, 341<sup>st</sup> Judicial Court District Court, Cause No.2010CUE-000680-03.

5. The Trustee is filing this motion for turnover seeking a bankruptcy court order for turnover by Cantu of a portion of those settlement proceeds from that case attributable to Cantu's fees in order to satisfy the \$10,626.61 in Court-ordered sanctions owed to the Trustee.

6. WHEREFORE, Trustee prays that this Court grant his Motion as hereinabove requested. Trustee prays for general relief.

Respectfully submitted:

Law Offices of Michael B. Schmidt

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Fed. ID No. 10260 / 17125  
ATTORNEYS FOR CHAPTER 7 TRUSTEE

CERTIFICATE OF SERVICE

I do hereby certify that on the 12th day of October, 2010, I served a copy of the forgoing Motion by electronic mail or by regular mail to the persons on the attached list.

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Tony Villeda  
by email

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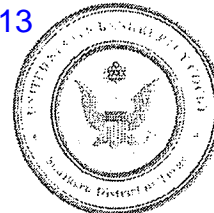
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EXHIBIT A



ENTERED  
12/04/2009

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

IN RE:	§	
MARCO A. CANTU, <i>et al</i> ,	§	Case No. 08-70260
Debtor(s).	§	
	§	Chapter 7
	§	
MARK A. CANTU, <i>et al</i> ,	§	
Plaintiff(s)	§	
	§	
VS.	§	Adversary No. 09-07011
	§	
TOMAS CORONA,	§	
Defendant(s).	§	Judge Isgur

ORDER APPROVING TRUSTEE'S FEES

On November 4, 2009, the Court issued an Order Granting in Part and Denying in Part Motion For Sanctions and Injunction ("Order") brought by Michael B. Schmidt, the chapter 7 trustee, against Debtor Mark A. Cantu. Doc. No. 28. In the Order, the Court awarded Trustee Schmidt his reasonable attorney's fees and costs for filing the motion against Mr. Cantu. Trustee Schmidt was further ordered to file a statement of his reasonable fees and costs not later than November 11, 2009. The Court's Order provided that Mr. Cantu could file a response to Trustee Schmidt's statement of his reasonable fees and costs not later than November 18, 2009.

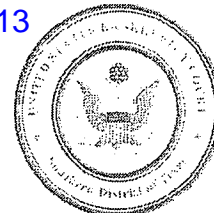
On November 5, 2009, Trustee Schmidt filed a notice of attorney's fees and expenses in the amount of \$2,345.00. Doc. No. 29. Mr. Cantu has not responded. Accordingly, this Court finds that Trustee Schmidt is entitled to attorney's fees and costs in the amount of \$2,345.00.

The Court orders that Mark A. Cantu pay Michael B. Schmidt \$2,345.00 in attorneys fees, with payment made not later than 15 days after entry of this order.

SIGNED December 3, 2009.

  
Marvin Isgur  
UNITED STATES BANKRUPTCY JUDGE





ENTERED  
12/29/2009

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

IN RE:	§	
MARCO A. CANTU, <i>et al</i> ,	§	Case No. 08-70260
Debtor(s).	§	
	§	Chapter 7
	§	
MARK A. CANTU, <i>et al</i> ,	§	
Plaintiff(s)	§	
	§	
VS.	§	Adversary No. 09-07011
	§	
TOMAS CORONA,	§	
Defendant(s).	§	Judge Isgur

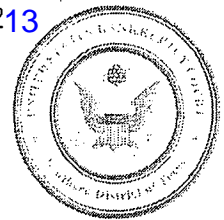
ORDER

For the reasons set forth on the record on October 29, 2009 and in the Court's Order Granting in Part and Denying in Part Motion For Sanctions and Injunction (Doc. No. 28) issued on November 4, 2009, the Court awards Michael B. Schmidt legal fees and expenses in the amount of \$6,781.61 (See Doc. No. 24).

The Court orders that Marco A. Cantu pay \$6,781.61 to Michael B. Schmidt not later than 15 days after entry of this order.

SIGNED December 29, 2009.

  
\_\_\_\_\_  
Marvin Isgur  
UNITED STATES BANKRUPTCY JUDGE



ENTERED  
03/31/2010

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

IN RE:	§	JOINTLY ADMINISTERED
MARCO A. CANTU and	§	CASE NO. 08-70260-M-7
ROXANNE CANTU and	§	CASE NO. 08-70261-M-7
MAR-ROX, INC.	§	
Debtors	§	CHAPTER 7
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MARK A. CANTU, et al,	§	
Plaintiff	§	
V.	§	ADVERSARY NO. 09-07011
	§	
TOMAS CANTU, et al,	§	
Defendant		

**ORDER GRANTING SANCTIONS**

Came on for hearing the Trustee's 3<sup>rd</sup> Motion for Sanctions and to Compel Debtor to Cease and Desist Ongoing Interference with Sale of Estate Property and for Willful Violations of the Automatic Stay and the Court having given due regard and consideration to the pleadings, evidence and argument of Counsel finds that the Motion should be GRANTED.

The Court finds the Letter dated February 26, 2010 attached to the Trustee's Motion was forwarded to the Counsel for the Buyer of the Atrium Office Building, along with a copy to Southern Texas Title, willfully and intentionally in violation of the automatic stay and in violation of this Court's previous orders and is sanctionable conduct.

The Court finds further that unless Cantu receives significant sanctions that he will in all likelihood continue to violate this Court's orders and continue to interfere with the administration of this Bankruptcy Estate(s).

Therefore, the Court hereby ORDERS Mark A. Cantu to cease and desist all interference with the administration of this Bankruptcy Estate(s) and is hereby SANCTIONED as follows:

a. Cantu is ORDERED to issue an appropriate retraction of his "interference letter" regarding sale of the estate properties within three (3) days of entry of this order. If he has not done as so ordered by that time, then a sanction of \$ 1,000 per day is hereby entered against Cantu (without further order of this Court) until he purges himself of this sanction by complying and issuing the retraction. The Court finds that Cantu's latest conduct in issuing this "interference letter" is a willful violation of the automatic stay and is also monetarily-sanctionable conduct in contempt of court for violating the previous orders of this Court. Therefore, Cantu is hereby further monetarily sanctioned for this willful violation and contempt of court and ORDERED pay to the Trustee \$ 4,000.00 within 15 days of entry of this Order.

b. Cantu is further sanctioned and ORDERED to pay the Trustee's attorneys fees in the amount of \$ 1,500.00 for having to bring *this* matter;

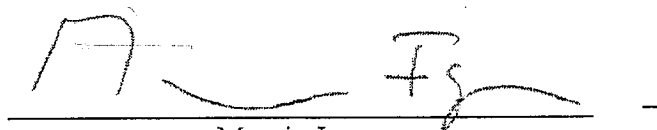
c. Cantu is in contempt of Court for failing to pay the Trustee the previously-ordered sanctioned attorneys fees in the amount of \$ 2,345.00 (doc. # 35) and \$6,781.61 (doc.# 39) and, as such, Cantu is further monetarily sanctioned and ORDERED to pay the Trustee \$ \$250.00 per day until he purges himself of all sanctions and they are paid in full, all collectable from his exempt property .

It is further ORDERED that all of Cantu's exempt assets (including his homestead) are subject to attachment, execution and sale to satisfy all sanctions against him covered by this order.

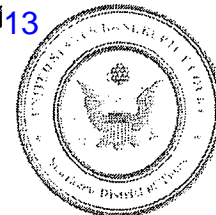
The Court finds further that an injunction is necessary to protect estate assets and prevent Cantu's frivolous and disruptive conduct. Therefore, it is further ORDERED that CANTU IS HEREBY ENJOINED from engaging in conduct aimed at thwarting or interfering with the Sale of the Atrium or any other court-approved estate property sales (except by appeal or appropriate motions for reconsideration). It is further ORDERED that the Trustee, the buyer (their officers and directors) buyer's lender, and the title company may not be sued for actions taken pursuant to the orders authorizing the sale of estate property.

It is so ORDERED.

Signed: March 31, 2010

A handwritten signature in dark ink, appearing to read 'Marvin Isgur', is written over a horizontal line.

Marvin Isgur  
Chief United States Bankruptcy Judge



ENTERED  
07/15/2010

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

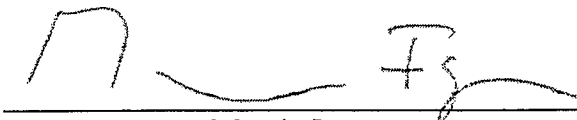
IN RE:	§	JOINTLY ADMINISTERED
MARCO A. CANTU and	§	CASE NO. 08-70260-M-7
ROXANNE CANTU and	§	CASE NO. 08-70261-M-7
MAR-ROX, INC.	§	
Debtors	§	CHAPTER 7
<hr/>		
MARK A. CANTU, et al,	§	
Plaintiff	§	
V.	§	ADVERSARY NO. 09-07011
	§	
TOMAS CANTU, et al,	§	
Defendant		

ORDER VACATING ORDER FOR SANCTIONS [Doc. #42]

Came on for hearing the Trustee's Motion to Withdraw Motion to Abate [Doc #43} and to

DENIED, in part. A portion of the sanctions imposed by the Court were for the purposes of compensating the estate for actual out of pocket costs and legal fees. The motion sets forth no basis on which the estate should bear those costs. Accordingly, although the Court will vacate the coercive sanctions against Cantu, the Court will not vacate the compensatory sanctions. A revised form of order may be submitted; provided that the revised order must set forth a reasonable and certain date by which the compensatory sanctions will be paid.

Signed: July 15, 2010

  
Marvin Isgur  
Chief United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

IN RE:	§	JOINTLY ADMINISTERED
MARCO A. CANTU and	§	CASE NO. 08-70260-M-7
ROXANNE CANTU and	§	CASE NO. 08-70261-M-7
MAR-ROX, INC.	§	
Debtors	§	CHAPTER 7

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**ORDER GRANTING MOTION FOR TURNOVER**

Came on for hearing the Trustee's Motion for Turnover of Debtor's Portion of Fees From Settlement Proceeds to Satisfy Unpaid Sanction Order against Debtor Mark Cantu and the Court having given due regard and consideration to the pleadings, evidence and argument of Counsel finds that the Motion should be GRANTED.

The Court finds that Debtor Mark Cantu has done nothing to satisfy the Court Ordered sanctions owed to the Trustee in the amount of \$10,626.61 (arising out of Adversary 09-7011) and that those sanctions remain outstanding. The Court further finds that Debtor Mark Cantu has an attorney fee interest in a significant personal injury case out of Webb County, Texas, *Guerra, et al, v. Ramirez, et al*, 341<sup>st</sup> Judicial Court District Court, Cause No.2010CUE-000680-03 and that it is in the best interest of the estate and its creditors to order turnover by Cantu of that portion of the settlement proceeds from that case attributable to Cantu's fees in order to satisfy the \$10,626.61 in Court-ordered sanctions owed to the Trustee.

Therefore, the Court ORDERS Cantu to turnover that portion of the settlement proceeds from that case attributable to Cantu's fees in order to satisfy the \$10,626.61 in Court-ordered sanctions owed to the Trustee. By entry of this Order, the Court also authorized the Trusts to utilize this Order to interplead in the Webb County State Court to secure turnover of the funds.

It is so ORDERED.

DATE:

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Honorable Richard Schmidt  
United States Bankruptcy Judge